

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

LPA No. 823 of 2025

Reserved on : 12.12.2025

Decided on: 30.12.2025

Parkash Chand

.....Appellant

Versus

State of H.P. and others

...Respondents

Coram

Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice.

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge.

Whether approved for reporting?¹

For the appellant:

Ms. Ritta Goswami, Senior Advocate with Ms. Komal Chaudhary, Ms. Rekha Thakur and Ms. Bhawna Dhiman, Advocates.

For the respondents:

Mr. Arsh Rattan, Deputy Advocate General.

Jiya Lal Bhardwaj, Judge

The challenge in the present appeal is to the judgment dated 12.08.2025 passed by the learned Single Judge in **CWPOA No.3016 of 2020**, titled, ***Parkash Chand vs. State of H.P. and others***, whereby the writ petition preferred by the appellant has been dismissed.

¹*Whether the reporters of Local Papers may be allowed to see the judgment?*

2. The appellant (hereinafter referred to as the “writ petitioner”) had filed the writ petition seeking directions to the respondents to pay him the pay-scale of Workshop Instructor on the analogy of ‘equal pay for equal work’ since he was discharging the function of Workshop Instructor from the day of his appointment along with the designation with all consequential benefits.

3. The undisputed facts are that the petitioner was appointed as Mechanic Motor Driving (hereinafter referred to be as “MMD”) on contract basis in Government Polytechnic College, Sundernagar, District Mandi, H.P. in the year 2004 on the initial stage of the pay-scale with 50% D.A. i.e. Rs.3330/- + 50% D.A. Later on, services of the petitioner were regularized vide office order dated 16.08.2012, on the same post, in the pay-scale of Rs.5910-20200/- + 2000 GP with initial start of Rs.8240/-.

4. The claim put forth by the petitioner in the writ petition was not accepted by the respondents-State. Consequently, the petitioner filed the writ petition on the ground that since he is discharging the duties of Workshop Instructor and the work entrusted to him was that of a

Workshop Instructor i.e. teaching, theoretical and practical, he may be granted the pay of Workshop Instructor, in the pay band of Rs.10300-34800 + Rs.3600/- Grade Pay.

5. The respondents-State filed reply to the writ petition and submitted that anomaly which is claimed against the post is having different nomenclature, duties and responsibilities. It was further submitted that simply possessing the essential qualifications required for the post is not a ground for claiming parity of the pay-scale. The staff structure in the Workshops in the Polytechnics of the State is that there were posts of the Workshop Instructors in the pay band of Rs.10300-34800 + Rs.3600/- Grade Pay who is the overall incharge of the respective Shops viz. Workshop Instructor, Turning, Machining, Welding, Carpentry, Fitting and Foundry for imparting training viz. Plan, deliver and evaluate shop instructions and guide the diploma students in the performance of practical tasks and skill exercises and evaluate their performance in the Workshop. The MMD has been discharging the duties and responsibilities such as providing assistance to faculty in conduct of practicals in Auto Shops Practices (Shop in Automobile Engineering

Department) as a supporting staff of the faculty i.e. Lecturer/Senior Lecturer/HOD's and Driving Practice to the Automobile Students which are quite different from the duties and responsibilities of Workshop Instructor as well as driver. It was submitted that there is no wholesome parity of the process of Workshop Instructor (Polytechnic) with the Post of MMD (Polytechnic) and hence prayed for dismissal of the writ petition.

6. The learned Single Judge on the basis of the pleadings, came to the conclusion that the scope of judicial review in the matters concerning grant of pay scales, its revision and related issues are well defined and the Court should interfere only when the administrative action is palpably unreasonable, unjustified and prejudicial to a section of employees. It was held that the decision as to the constitution, pattern, nomenclature of posts, cadres, their creation/abolition, and other conditions of service including avenue of promotion and fixation of pay and its revision is in the exclusive domain of the Government and such matters are to be decided by the experts and it is not for the Court to substitute its own opinion. In the cases of parity in pay scales,

it has been repeatedly held that the expert job cannot be undertaken by the Court and thus dismissed the writ petition, placing reliance upon ***P.U. Joshi and others vs. Accountant General, Ahmedabad and others*** (2003) 2 SCC 632, wherein it has been held as under:-

“10. We have carefully considered the submissions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of Policy and within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the Statutory Tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a Government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service.”

7. The reliance was also placed on the judgment in ***Haryana State Minor Irrigation Tubewells Corporation and***

others Vs. G.S. Uppal and Others, (2008) 7 SCC 375,

wherein it has been held that fixation of the pay and determination of parties is the function of the executive.

Relevant para of the judgment is reproduced as under:-

“21. There is no dispute nor can there be any to the principle as settled in the above-cited decisions of this Court that fixation of pay and determination of parity in duties is the function of the Executive and the scope of judicial review of administrative decision in this regard is very limited. However, it is also equally well-settled that the courts should interfere with the administrative decisions pertaining to pay fixation and pay parity when they find such a decision to be unreasonable, unjust and prejudicial to a section of employees and taken in ignorance of material and relevant factors.”

8. The learned Single Judge has also placed reliance upon the observations recorded by Hon’ble Division Bench of this Court in the judgment dated 21.11.2016 passed in **LPA No.445 of 2012**, wherein the judgment of the Hon’ble Supreme Court in ***State of Punjab and others versus Jagjit Singh and others, (2017) 1SCC 148***, has been followed and has observed as under:-

“27. However, the aforesaid submissions of the petitioners cannot be accepted in teeth of the ratio laid down by Hon’ble Supreme Court in Jagjit Singh’s case supra, wherein the Hon’ble Supreme Court has categorically held that ‘onus of proof’ of parity in the duties and responsibilities of the subject post with the reference post, under the principle of ‘equal pay & equal work’, lies on the person who claims it and it is for him to establish that the subject post occupied by him, requires him to discharge equal work of equal value, as the reference post. For this purpose, the employees concerned with whom equation as

is sought should be performing work, which besides being functionally equal should be of same quality and sensitivity.

28. Further, in determining equality of functions and responsibilities, it would be necessary to keep in mind that the duties of the two posts should be of equal sensitivity and qualitatively similar. Differentiation of pay-scales for posts with difference in degree of responsibility, reliability and confidentiality, would fall within the realm of valid classification and therefore, pay differentiation would be legitimate and permissible.

Therefore, the person holding the same rank/designation but having dissimilar powers, duties and responsibilities can be placed in different scales of pay, and cannot claim the benefit of the principle of 'equal pay for equal work'. 29. It has been reiterated in Jagjit Singh case (supra) that parity in pay, under the aforesaid principal of 'equal pay for equal work' cannot be claimed merely on the ground, that an earlier point of time, the subject post and the reference post were placed in the same pay scale. The principle 'equal pay for equal work' is applicable only when it is shown, that the incumbent of the subject post and the reference post discharge similar duties and responsibilities while claiming parity in pay scales under principle of 'equal pay for equal work' equation in the nature of duties is of paramount importance and there is no comparison between one set of employees in one organization and another set of employees in different organizations, there can be no question of equation of pay scale under this principle."

9. The learned Single Judge while rejecting the claim of the writ petitioner has relied upon the above judgments and the judgment rendered in ***Punjab State Electricity Board and Another Vs. Thana Singh and Others (2019) 4 SCC 113***, wherein it has been unequivocally held that classification of employees/posts on the basis of duties and responsibilities is for the employer. Article 14 of the Constitution of India would

be attracted only when there is discrimination among similarly situated employees.

10. The learned senior counsel appearing on behalf of the petitioner has vehemently argued that the post of Workshop Instructor was available and the same was not filled up and since the writ petitioner has been teaching, he was discharging the duties of Workshop Instructor and thus entitled to the pay-scale of the Workshop Instructor. The learned senior counsel further argued that since the learned Single Judge has erred while dismissing the writ petition, the appeal may kindly be allowed and the relief claimed in the writ petition be granted to the writ petitioner.

11. On the other hand, learned Deputy Advocate General representing the respondents-State has supported the judgment passed by the learned Single Judge. It was argued that once the writ petitioner had accepted his appointment as MMD in the year 2004 and thereafter accepted his regularization on the same post vide office order dated 16.08.2012, no illegality has been committed by the learned Single Judge while dismissing the writ petition. He further argued that simply by possessing of qualification to

hold the post of Workshop Instructor does not entitle the writ petitioner to be appointed against the said post and further grant him the pay-scale of the said post.

12. We have heard the learned counsel for the parties and perused the record carefully.

13. It is not in dispute that the petitioner was appointed as MMD in the year 2004 and he was regularized on the said post vide office order dated 16.08.2012 (Annexure A-5). At the time of regularizing the services of the writ petitioner, he did not raise any dispute on the post of MMD. Later on, he made a representation to the Principal of the Polytechnic College where he was working, to forward his request to the Director, Technical Education, for granting him the pay scale of Workshop Instructor, instead of MMD.

14. It is settled law by a catena of decisions that it is the job of the employer to assign a particular pay-scale to its employees. The pay scale cannot be granted to an employee at his request. Even, if the writ petitioner was possessing the qualification to hold the post, it cannot advance his case for the simple reason that the pay-scale is attached to the post and not on the basis of the qualification to hold the post.

15. The learned Single Judge on the basis of the pleadings has rightly come to the conclusion that the writ petitioner had joined the service in the year 2004 as MMD. His services were regularized vide office order dated 16.08.2012 on the same post. He continued to work in the Government Polytechnic College, Sundernagar and at the time of his regularization on the post of MMD in its own scale without any reservation in the year 2012 and belatedly instituted the petition in the year 2017.

16. The learned senior counsel representing the writ petitioner has vehemently argued that as per the documents received by the writ petitioner under the Right to Information Act, the writ petitioner has been shown to be teaching. Simply, on the basis that the petitioner has been shown teaching in one of the documents, cannot advance the claim of the writ petitioner, especially, when the respondents in their reply have specifically denied that he was discharging the duties of Workshop Instructor. Since the recruitment of the petitioner is on the post of MMD and his services were regularized on the said post, as is evident from the documents placed on record, we do not see any reason to take a different view, as has

been taken by the learned Single Judge while dismissing the writ petition preferred by the writ petitioner.

17. In view of the detailed discussions made hereinabove, we are of the considered view that the judgment passed by the learned Single Judge does not suffer from any illegality, which warrants interference. Hence, the appeal being bereft of any substance is dismissed. However, no order as to costs.

Pending application(s), if any, shall also stand disposed of.

(G.S.Sandhawalia)
Chief Justice

(Jiya Lal Bhardwaj)
Judge

30th December, 2025
(ankit)